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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/758,227	01/16/2004	Masafumi Masuda	247863US90	5743
22850 7590 08/02/2007 OBLON, SPIVAK, MCCLELLAND, MAIER & NEUSTADT, P.C. 1940 DUKE STREET ALEXANDRIA, VA 22314				
			EXAMINER HUYNH, NAM TRUNG	
			ART UNIT 2617	PAPER NUMBER
			NOTIFICATION DATE 08/02/2007	DELIVERY MODE ELECTRONIC

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

patentdocket@oblon.com  
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**Office Action Summary**

Application No.

10/758,227

Applicant(s)

MASUDA ET AL.

Examiner

Nam Huynh

Art Unit

2617

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 16 January 2004.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-3 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-3 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date 3/4/05.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_.

## DETAILED ACTION

### *Claim Rejections - 35 USC § 103*

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

3. Claims 1-3 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ishikawa et al. (US 2002/0114289) (hereinafter Ishikawa) in view of Lu (US 7,106,708).

Regarding claims 1 and 3, Ishikawa discloses a communications system employing novel scheme of radio channel setting control (title). The system comprises a radio network control apparatus (radio control device) that controls a plurality of base stations, which covers a respective one of divided radio zones (cells). The base stations and mobile stations transmit user information between each other wherein the user information is spread into a wide-band radio spectrum in proportion to the transmission rate (plurality of cells with different frequency bands exist at the same location). The radio network control apparatus comprises a spread code

management/allocation processing part that manages use situations of the spread codes in the subordinate base stations based on a spread code management table stored in memory. The spread code management/allocation processing part determines whether it is possible to allocate a spread code for the base station when there is a request such that a radio channel be setup between the base station and the mobile station (page 7, paragraph 98). However, Ishikawa does not explicitly disclose that the radio network control apparatus comprises:

*code selection trial means for each cell, provided in association with each of the plurality of cells, for trying to select a spread code for the associated cell under a predetermined condition;*

*determination means for determining for whether to try to select a spread code again under a different condition from the condition that has been used in the selection trial, when the selection trial of the spread code by each code selection trial means under the predetermined condition has been terminated without any successful selection of the spread code; and*

*control means for controlling the code selection trial means and the determination means and the determination means so as to cause the code selection trial means to try to select the spread code sequentially for the plurality of cells under the predetermined condition, cause the determination means to determine whether to try to select the spread code again under the different condition from the condition that has been used in the selection, after the termination of the selection trial by each code selection trial means, and cause the code selection trial means to try to select the*

*spread code sequentially for the plurality of cells under the different condition when it has been determined that the selection should be tried again.*

Lu discloses a method for implementing fast dynamic channel allocation call admission control in radio resource management (title). In the scope of the invention, Lu teaches a method for assigning a code set to a timeslot. The method begins by selecting a first spreading factor in the code set (predetermined condition). Each available timeslot is then evaluated to check if the code can be supported (trying to select a spread code for the associated cell under the predetermined condition). If there are additional codes to be evaluated, then the next code is selected and then evaluated in the same manner. If there are no additional codes to be evaluated (termination without any successful selection of the spread code), it is determined whether there is a larger spreading factor available (different condition) and the method is restarted (select a spread code again under a different condition) (column 6). Therefore it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the invention of Ishikawa to include the method for assigning a code set to a time slot of a cell, as taught by Lu, in order to allow the radio network control apparatus to check whether there are sufficient physical resources to meet the request of a call.

Regarding claim 2, Lu teaches that a code set specifies the spreading factor of the orthogonal variable spreading factor (OVSF) codes to support the data rate (column 3, lines 31-33).

**Conclusion**

4. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Harris (US 2004/0203823)

Willenegger (US 7,003,269)

Nakamura et al. (US 5,953,326)

Tanno et al. (US 2002/0041579)

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Nam Huynh whose telephone number is 571-272-5970. The examiner can normally be reached on 8 a.m.-5 p.m..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, George Eng can be reached on 571-272-7495. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.


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NTH

7/16/07

  
GEORGE ENG  
SUPERVISORY PATENT EXAMINER